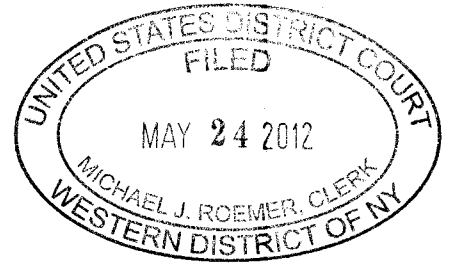


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No: 12-mj-6206-BSS



United States of America  
Plaintiff,

v.

Charging District's Case No. 12-cr-125

Joel Marcus,  
Defendant.

**WAIVER OF RULE 5 & 5.1 REMOVAL/IDENTITY HEARINGS**

I understand that I have been charged in another district, the **Western District of New York**.

I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing within 14 days of my first appearance if I am in custody and 21 days otherwise — unless I am indicted — to determine whether there is probable cause to believe that an offense has been committed;
- (5) a hearing on any motion by the government for detention;
- (6) request transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

I agree to waive my rights to: **(check those that apply)**

- ☒ An identity hearing and production of the warrant.
- ☐ A preliminary hearing.
- ☐ A detention hearing in the Southern District of Florida.
- ☐ An identity hearing, production of the warrant, and any preliminary or detention hearing to which I may be entitled to in this district. I request that those hearings be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

May 18, 2012

\_\_\_\_\_  
Defendant's Signature

  
ROBIN S. ROSENBAUM  
UNITED STATES MAGISTRATE JUDGE

#6

**0:12-mj-06206-BSS USA v. Foland et al****Date filed:** 05/17/2012**Date of last filing:** 05/18/2012**Select one of the following Docket Entries**

<input type="radio"/>	05/17/2012		Set/Reset Deadlines/Hearings as to Gene Clark Foland: Report Re: Counsel Hearing set for 5/18/2012 11:00 AM in Fort Lauderdale Division before FTL Duty Magistrate. (rby)
<input type="radio"/>	05/17/2012		Arrest of Gene Clark Foland (at)
<input type="radio"/>	05/17/2012		Counts added: Joel Marcus (2) count(s) 1 (rby)
<input type="radio"/>	05/17/2012		Set/Reset Deadlines/Hearings as to Joel Marcus: Initial Appearance - Rule 5(c) (3)/40 set for 5/18/2012 11:00 AM in Fort Lauderdale Division before FTL Duty Magistrate. (rby)
<input type="radio"/>	05/17/2012		Arrest of Joel Marcus (at) (Entered: 05/18/2012)
<input type="radio"/>	05/17/2012	<u>1</u>	Magistrate Removal of Indictment from Western District of New York Case number in the other District 12-cr-125 as to Gene Clark Foland (1). (pg 32 missing) (at) (Main Document 1 replaced on 5/17/2012) (at).
<input type="radio"/>	05/17/2012	<u>2</u>	Report Commencing Criminal Action as to Gene Clark Foland - YOB: **/**/1959 Prisoner #: 18076-001 (at)
<input type="radio"/>	05/17/2012	<u>3</u>	Order on Initial Appearance as to Gene Clark Foland for proceeding held on 5/17/2012 as to Gene Clark Foland (1) PRETRIAL DETENTION. Detention Hearing set for 5/22/2012 11:00 AM in Fort Lauderdale Division before FTL Duty Magistrate. Removal Hearing set for 5/22/2012 11:00 AM in Fort Lauderdale Division before FTL Duty Magistrate. Report Re: Counsel Hearing set for 5/18/2012 11:00 AM in Fort Lauderdale Division before FTL Duty Magistrate.. (Signed by Ch. Magistrate Judge Barry S. Seltzer on 5/17/2012). (at)
<input type="radio"/>	05/17/2012	<u>4</u>	ORDER as to Gene Clark Foland unsealing indictment from WD/NY.. (Signed by Ch. Magistrate Judge Barry S. Seltzer on 5/17/2012). (at)
<input type="radio"/>	05/17/2012	<u>5</u>	Minute Entry for proceedings held before Ch. Magistrate Judge Barry S. Seltzer: Initial Appearance in Rule 5(c)(3)/Rule 40 Proceedings as to Gene Clark Foland held on 5/17/2012. Deft present in court, gov't moves to unseal indictment, court grants ore tenus motion, signed order. Sworn/Test for court appointment. Deft does not qualify for court appointment. (Digital 11:32:53.) (at)
<input type="radio"/>	05/18/2012		Set/Reset Deadlines/Hearings as to Gene Clark Foland: Report Re: Counsel Hearing set for 5/21/2012 01:00 PM in Fort Lauderdale Division before FTL Duty Magistrate. (rby)
<input type="radio"/>	05/18/2012	<u>6</u>	Report Commencing Criminal Action as to Joel Marcus - YOB: **/**/1938 Prisoner #: 99850-004 (at)
<input type="radio"/>	05/18/2012	<u>7</u>	NOTICE OF ATTORNEY APPEARANCE: Richard L. Rosenbaum appearing for Joel Marcus (dd)
<input type="radio"/>	05/18/2012	<u>8</u>	Minute Entry for proceedings held before Magistrate Judge Robin S. Rosenbaum: Status Conference re counsel as to Gene Clark Foland held on 5/18/2012. Matter

			reset to 5/21/12 at 1:00pm. (Digital 11:13:51.) (dd) Modified on 5/18/2012 (dd).
<input type="radio"/>	05/18/2012	9	Order on Initial Appearance as to Joel Marcus for proceeding held on 5/18/2012. \$325,000 PSB set. Defendant waives removal and is ordered to return to charging district.. Signed by Magistrate Judge Robin S. Rosenbaum on 5/18/2012. (dd)
<input type="radio"/>	05/18/2012	10	\$325,000 PSB Bond Entered as to Joel Marcus Approved by Magistrate Judge Robin S. Rosenbaum Special Conditions: <b>a.</b> Surrender all passports and travel documents to the Pretrial Services Office; <b>b.</b> Report to Pretrial Services as directed; <b>c.</b> Submit to substance abuse testing and/or treatment as directed by Pretrial Services; <b>d.</b> Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance; <b>i.</b> Avoid all contact with victims of or witnesses to the crimes charged, except through counsel; <b>j.</b> Refrain from possessing a firearm, destructive device or other dangerous weapons; <b>q.</b> Comply with additional conditions of bondTravel in SD/FL and WD/NY. (dd)
<input type="radio"/>	05/18/2012	11	WAIVER of Rule 5(c)(3)/Rule 40 Hearing by Joel Marcus (dd)
<input type="radio"/>	05/18/2012	12	ORDER OF REMOVAL as to Joel Marcus. Defendant order to return to District of WD/NY. Signed by Magistrate Judge Robin S. Rosenbaum on 5/18/2012. (dd)
<input type="radio"/>	05/18/2012	13	Minute Entry for proceedings held before Magistrate Judge Robin S. Rosenbaum: Bond Hearing as to Joel Marcus held on 5/18/2012, Initial Appearance in Rule 5(c)(3)/Rule 40 Proceedings as to Joel Marcus held on 5/18/2012. (Digital 10:59:00.) (dd)
<input type="radio"/>	05/18/2012	14	Transmittal Letter as to Joel Marcus sent to WD/NY with Rule 5 papers (dd)

**Select action to be taken on selected docket entry:**

- ☒ Edit all docket entry information
- ☐ Add one or more docket parts to an existing docket entry
- ☐ Add documents to a docket entry
- ☐ Modify a document description or security
- ☐ Replace a document (main or attachment)
- ☐ Add or delete docket entry relationships
- ☐ Add or delete a judge association with documents and schedules
- ☐ Modify judge association data
- ☐ Edit counts and intervals
- ☐ Edit locations
- ☐ Edit excludables
- ☐ Set QC date to today with no changes needed

Next

Clear

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**  
CASE NO: 12-mj-6206-BSS

UNITED STATES OF AMERICA  
Plaintiff,

v.

Joel Marcus  
Defendant,

---

I, **Joel Marcus**, and I or we, the undersigned sureties, jointly and severally acknowledge that we and our personal representatives, jointly and severally, are bound to pay the United States of America, the sum **\$325,000 personal surety bond cosigned by Defendant's wife, son and daughter-in-law.**

**STANDARD CONDITIONS OF BOND**

The conditions of this bond are that the defendant:

1. Shall appear before this court and at such other places as the defendant may be required to appear, in accordance with any and all orders and directions relating to the defendant's appearance in this case, including appearance for violation of a condition of the defendant's release as may be ordered or notified by this court or any other United States District Court to which the defendant may be held to answer or the cause transferred. The defendant is to abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any order or direction in connection with such judgment. This is a continuing bond, including any proceeding on appeal or review, which shall remain in full force and effect until such time as the court shall order otherwise.

2. May not at any time, for any reason whatever, leave the Southern District of Florida or other District to which the case may be removed or transferred after he or she has appeared in such District pursuant to the conditions of this bond, without first obtaining written permission from the court, except that a defendant ordered removed or transferred to another district may travel to that district as required for court appearances and trial preparation upon written notice to the Clerk of this court or the court to which the case has been removed or transferred. The Southern District of Florida consists of the following counties: **Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, and Highlands.**

3. May not change his or her present address as recorded on this bond without prior permission in writing from the court.

4. Is required to appear in court at all times as required by notice given by the court or its clerk to the address on this bond or in open court or to the address as changed by permission from the court. The defendant is required to ascertain from the Clerk of Court or defense counsel the time and place of all scheduled proceedings on the case. In no event may a defendant assume that his or her case has been dismissed unless the court has entered an order of dismissal.

5. The defendant must cooperate with law enforcement officers in the collection of a DNA sample if the collection is required by 42 U.S.C. Section 14135(a).

6. Shall not commit any act in violation of state or federal laws.

**PENALTIES AND SANCTIONS APPLICABLE TO DEFENDANT**

Violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for the defendant's arrest, a revocation of release, an order of detention, as provided in 18 U.S.C. § 3148, forfeiture of any bail posted, and a prosecution for contempt as provided in 18 U.S.C. § 401, which could result in a possible term of imprisonment or a fine.

The commission of any offense while on pretrial release may result in an additional sentence upon conviction for such offense to a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be consecutive to any other sentence and must be imposed in addition to the sentence received for the offense itself.

Title 18 U.S.C. § 1503 makes it a criminal offense punishable by up to five years of imprisonment and a \$250,000 fine to intimidate or attempt to intimidate a witness, juror or officer of the court; 18 U.S.C. § 1510 makes it a criminal offense punishable by up to five years of imprisonment and a \$250,000 fine to obstruct a criminal investigation; 18 U.S.C. § 1512 makes it a criminal offense punishable by up to ten years of imprisonment and a \$250,000 fine to tamper with a witness, victim or informant; and 18 U.S.C. § 1513 makes it a criminal offense punishable by up to ten years of imprisonment and a \$250,000 fine to retaliate against a witness, victim or informant, or threaten to do so.

It is a criminal offense under 18 U.S.C. § 3146, if after having been released, the defendant knowingly fails to appear as required by the conditions of release, or to surrender for the service of sentence pursuant to a court order. If the defendant was released in connection with a charge of, or while awaiting sentence, surrender for the service of a sentence, or appeal or certiorari after conviction for:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more the defendant shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, the defendant shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, the defendant shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, the defendant shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be consecutive to the sentence of imprisonment for any other offense. In addition, a failure to appear may result in the forfeiture of any bail posted, which means that the defendant will be obligated to pay the full amount of the bond, which may be enforced by all applicable laws of the United States.

**SPECIAL CONDITIONS OF BOND**

In addition to compliance with the previously stated conditions of bond, the defendant must comply with the special conditions checked below:

- ☒ a. Surrender all passports and travel documents, if any, to the Pretrial Services Office and not obtain any travel documents during the pendency of the case; \_\_\_\_\_
- ☒ b. Report to Pretrial Services as follows: ( xx ) as directed or \_\_\_\_\_ time(s) a week in person and \_\_\_\_\_ time(s) a week by telephone;
- ☐ c. Submit to substance abuse testing and/or treatment;
- ☒ d. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802), without a prescription by a licensed medical practitioner;
- ☐ e. Participate in mental health assessment and/or treatment;
- ☐ f. Participate and undergo a sex offense specific evaluation and treatment;
- ☐ g. Maintain or actively seek full-time employment;
- ☐ h. Maintain or begin an educational program;
- ☒ i. Avoid all contact with victims of or witnesses to the crimes charged, except through counsel;
- ☒ j. Refrain from possessing a firearm, destructive device or other dangerous weapons;
- ☐ k. None of the signatories may sell, pledge, mortgage, hypothecate, encumber, etc., any property they own, real or personal, until the bond is discharged, or otherwise modified by the Court;
- ☐ l. May not visit commercial transportation establishment: *airports, seaport/marinas, commercial bus terminals, train stations, etc.*;
- ☐ m. No access to the internet via any type of connectivity device (*i.e. computers, pda's, cellular phones, tv's*), and follow instructions as outlined in the agreement waiver provided to you by Pretrial Services;
- ☐ n. **HOME CONFINEMENT PROGRAM** The defendant shall participate in one of the following home confinement program components and abide by all the requirements of the program which include:
- \_\_\_\_\_ **Electronic Monitoring** or other location verification system, paid for by the defendant *based upon his/her ability to pay* ( ) or **paid for by Pretrial Services** ( ).
- \_\_\_\_\_ **Electronic Monitoring** with Active Global Positioning System (GPS) tracking.
- \_\_\_\_\_ **Curfew:** You are restricted to your residence every day from \_\_\_\_\_ to \_\_\_\_\_, or as directed by the Court.
- \_\_\_\_\_ **Home Detention:** You are restricted to your residence at all times except for: ( ) **medical needs or treatment**, ( ) **court appearances**, ( ) **attorney visits** or **court ordered obligations**, and ( ) **other** \_\_\_\_\_.
- ☐ o. **HALFWAY HOUSE PLACEMENT** The defendant shall reside at a halfway house or community corrections center and abide by all the rules and regulations of the program. You are restricted to the halfway house at all times except for: ( ) **employment**; ( ) **education**; ( ) **religious services**; ( ) **medical, substance abuse, or mental health treatment**; ( ) **attorney visits**; ( ) **court appearances**; ( ) **court ordered obligations**; ( ) **reporting to Pretrial Services**; and ( ) **other** \_\_\_\_\_.
- ☒ p. May travel to and from: S. Dist. of Florida and the Western District of New York, and must notify Pretrial Services of travel plans before leaving and upon return.
- ☐ q. Comply with the following additional conditions of bond: \_\_\_\_\_
- \_\_\_\_\_

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-MJ-6206 BSS

UNITED STATES OF AMERICA,  
Plaintiff,  
v.

NOTICE OF PERMANENT  
APPEARANCE AS COUNSEL  
OF RECORD

Joel Marcw

Defendant.

COMES NOW Richard Rosenbaum, and files this appearance as counsel for the above named defendant(s). Counsel agrees to represent the defendant(s) for all proceedings arising out of the transaction with which the defendant(s) is/are presently charged in the United States District Court in and for the Southern District of Florida.

Counsel hereby states that this appearance is unconditional and in conformity with the requirements of Local General Rule 16 and the Special Rules Governing the Admission and Practice of Attorneys.

Counsel acknowledges responsibility to advise the defendant(s) of the right of appeal, to file a timely notice of appeal if requested to do so by the defendant(s), and to pursue that appeal unless relieved by Court Order.

**FEE DISPUTES BETWEEN COUNSEL AND CLIENT SHALL NOT BE A BASIS FOR WITHDRAWAL FROM THIS REPRESENTATION.**

DATED: \_\_\_\_\_

Attorney: Richard Rosenbaum

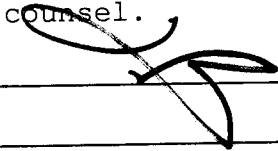
Address: 200 E Las Olas Blvd

City Ft Lauderdale State FL Zip Code 33301

Telephone (954) 522-7007

Florida Bar Number: 394688

The undersigned defendant(s) hereby consent(s) to the representation of the above counsel.

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_